

BARBARA W. ROBERTS
Assistant Attorney General
Attorney for the Division of
Oil, Gas and Mining
236 State Capitol
Salt Lake City, Utah 84114
Telephone: (801) 533-6684

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

CO-OP MINING COMPANY,	:	
Petitioner,	:	RESPONSE
vs	:	
DIVISION OF OIL, GAS AND	:	Docket No. 85-053
MINING,	:	Cause No. ACT/015/025
Respondent.	:	

Respondent, the Division of Oil, Gas and Mining ("Division"), by and through its undersigned attorney, hereby responds to the allegations contained in Co-op Mining Company's ("Co-op") Amended Petition for Review ("Petition") as follows:

1. The Petition fails to state a claim upon which relief can be granted.

2. Respondent denies the allegations contained in paragraph one of the Petition.

3. With respect to paragraph two of the Petition, Respondent admits that the violation occurred, but denies the remaining allegations. Respondent affirmatively alleges that the designation of N84-7-1-1 for this citation is in error and that the correct designation for this failure-to-abate cessation order is C84-7-1-1.


4. With respect to paragraph three of the Petition, Respondent admits that ice had formed in a culvert but denies the remaining allegations.

5. Respondent denies the remaining allegations contained in paragraph four of the Petition.

6. With respect to paragraph five of the Petition, Respondent admits that a failure-to-abate cessation order was issued as a result of Co-op's failure to abate notice of violation N85-4-13-1 but affirmatively alleges that the proper designation of that Cessation Order is C85-4-4-1. Respondent denies the remaining allegations contained in Paragraph five of the Petition.

WHEREFORE, the Division requests that Petitioner's prayer for relief be denied and that the Petition be dismissed with prejudice.

Respectfully submitted this 9 day of October, 1985.



BARBARA W. ROBERTS
Assistant Attorney General

MAILING CERTIFICATE

This is to certify that a true and correct copy of the foregoing Notice was mailed first class, postage pre-paid, to Carl Kingston, 53 West Angelo Avenue, P.O. Box 15809, Salt Lake City, Utah 84115, this 9th day of October, 1985

Carol Call

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING

1588 West North Temple
Salt Lake City, Utah 84116
Telephone: (801) 533-5771

NOTICE OF VIOLATION NO. *N 85-4-B-2*

From the STATE OF UTAH
To the Following Permittee or Operator:

NAME C.O.-OP / MINING CO.
MINE BEAR CANYON MINE ☐ SURFACE ☒ UNDERGROUND ☐ OTHER _____
CATEGORY OF OWNERSHIP: ☐ STATE ☐ FEDERAL ☐ FEE ☐ MIXED
OSM MINE NO. _____ STATE PERMIT NO. ACT/C15/1025 MSHA I.D. NO. _____
COUNTY AND STATE EMERY COUNTY, UTAH TELEPHONE _____
MAILING ADDRESS: P.O. Box 1345 HUNTINGTON UT 84158
DATE OF INSPECTION MARCH 7, 19 85
TIME OF INSPECTION: FROM 9:40 ☒ a.m. to 3:30 ☒ p.m.
☐ p.m. to _____
NAME OF OPERATOR (if other than permittee) _____
MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining and Reclamation Act of 1979 (Sec. 40-10-1 et seq., Utah Code Annotated, 1953), the undersigned authorized representative of the Director and the Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that cessation of mining is ☐ is not ☒ expressly or in practical effect required by this Notice. For this purpose "Mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This Notice shall remain in effect until it expires as provided on the reverse or is modified, terminated or vacated by written notice of an authorized representative of the Director of the Division of Oil, Gas & Mining. The time for abatement may be extended by the authorized representative for good cause, if a request is made within a reasonable time before the end of the abatement period.

Date of Service MARCH 12, 1985 DAVID LOE
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 2:15 ☐ a.m. DAVID LOE #4
☒ p.m. NAME AND I. D. NO.

Person Served with Notice MELVIN A. COONROD
PRINT NAME AND TITLE

Signature ISSUED FROM DIVISION OFFICE

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE





STATE OF UTAH

Notice of Violation No. B5-4-8-2

Violation No. 2 of 2

Nature of the Violation

FAILURE TO MAINTAIN SEDIMENT CONTROLS IN SUCH A MANNER AS TO PREVENT
ADDITIONAL CONTRIBUTIONS OF SUSPENDED SOLIDS TO STREAMFLOW OR RUNOFF
OUTSIDE THE PERMIT AREA.

Provision(s) of the Regulations, Act, or Permit Violated

UMCB17.45

Portion of the Operation to which Notice Applies

THE CROSS CULVERT TO THE SCRIEHOUSE CATCH BASIN (SEDIMENT POND B)

Remedial Action Required (including interim steps, if any)

MAINTAIN THE CULVERT SO THAT IT CAN PASS THE RUNOFF FROM A
10 YEAR, 24 HOUR PRECIPITATION EVENT, AS DESIGNED

Time for Abatement (including time for interim steps, if any)

MARCH 21, 1985, at 5 p.m.

E02 TR

COMPANY/MINE Co-Op Mining Co. / Bear Cyn. Mine NOV/CO # NBS-4-B-2
PERMIT # ACT/1215/1225 VIOLATION # 2 or 2

EVENT VIOLATIONS INSPECTORS STATEMENT

NOTE: PLEASE READ THE ATTACHED INFORMATION FIRST

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- (f) Water pollution.
- g. Loss of reclamation / revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other.

2. Has the event occurred? Yes No X

If yes, describe it. If no, what would cause it to occur and how likely is it that it would happen.

ANY RUNOFF EVENT COULD HAVE CAUSED THE EVENT IN FACT IT IS LIKELY THAT THE EVENT DID OCCUR BUT SINCE NO H₂O SAMPLES WERE TAKEN WHEN THE OSM INSPECTION NOTED THE PROBLEM IT CANNOT BE VERIFIED. THE RUNOFF WOULD HAVE COME ALMOST DIRECTLY INTO BEAR CK. WHICH IS A PERENNIAL STREAM WITH A BACKGROUND TOTAL SUSPENDED SOLIDS LEVEL OF 350-1500 mg/l.

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes X No
Does: Yes No

Would: Yes X No
Does: Yes No

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

IT IS NOT KNOWN WHAT QUANTITY OR QUALITY OF RUNOFF BYPASSED THE SEDIMENT BASIN AND WENT INTO BEAR CK. THE AMOUNT OF DAMAGE WHICH MIGHT HAVE OCCURRED IS HIGHLY VARIABLE AND DEPENDENT OF RATE OF SNOWMELT & ADDITIONAL PRECIPITATION EVENTS.

Potential damage off the disturbed area. Yes X No

Potential damage off the permit area. Yes X No



B. DEGREE OF FAULT (Only one question applies to each violation, check one and discuss.)

() No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

() Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

() Recklessness:

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

() Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

THE OPERATOR RECEIVED A SIMILAR VIOLATION RE: THE BYPASS CULVERT ON 1/15/85, NBS-4-2-1. THE OPERATOR WAS TOLD ON 2/25/85 NOT TO BREAK THE BERM TO BYPASS THE CULVERT INLET, & TO CLEAN OUT THE CULVERT. THE OPERATOR RELEASED TDN X-85-02-031-02 ON FEB. 27, 1985 NOTIFYING THEM OF THE PROBLEM AND WARNING THEM TO FIX IT.

GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

THE ABATEMENT DEADLINE FOR THE NOV WAS 3/21/85. THE VIOLATION WAS ABATED AT THE TIME OF MY 3/22/85 FOLLOWUP INSPECTION AND I HAD NOT RECEIVED ANY PRIOR NOTIFICATION OF COMPLETION OF THE REMEDIAL ACTIONS REQUIRED

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.
3. Was the submission of plans prior to physical activity required by this NOV? Yes _____ No X If Yes, explain.

DATE

JUNE 6, 1985


AUTHORIZED REPRESENTATIVE

#5231

EXCERPT FROM BEAR CYN. MEMO FOR 3/7/85 INSPECTION

Page 2
ACT/015/025
Memorandum
March 29, 1985

UMC 817.21-.23 Topsoil

A topsoil stockpile sign was properly posted on top of the stockpile. The stockpile was located east of the operator's scale-house facilities and was protected by a berm and ditch.

UMC 817.41-.51 Hydrologic Balance

Scalehouse Catch Basin, Notice of Violation N85-4-3-2, #2 of 2

This violation was issued to the operator on February 25, 1985 for failure to reconstruct the scalehouse catch basin in accordance with their approved permit. The remedial action required that the operator either reconstruct the catch basin to meet the approved design specifications or submit the modification of the approved design to the Division for approval. The time for abatement was March 12, 1985.

While inspecting and discussing the catch basin with Mr. Munson we made the following observations in regards to the catch basin construction in addition to the problems which were noted in my February 20, 1985 inspection memo.

- a. The catch basin was constructed in the flood plain of Bear Creek, thereby constricting stream flow during high flows.
- b. It appeared that the embankment was constructed by pushing up the embankment material with a dozer, therefore, there was very little if any compaction of the embankment and some very large (3' +) rocks were incorporated into the embankment.

I asked Mr. Owen what they were planning on doing in regards to abatement of the Violation. He indicated to me that Mr. Coonrod had apparently found some documents indicating that Co-Op has been waiting for review of some additional information prior to the implementation of the plans.

Scalehouse Catch Basin Cross Culvert, NOV N85-4-8-2, # 2 of 2

During a telephone conversation with Mel Coonrod of Co-Op Mining Company on February 25, 1985, Mr. Coonrod informed me that the cross culvert under the road to the catch basin was partially blocked with ice. He asked if it would be all right to divert the disturbed area runoff into the adjacent undisturbed diversion while he tried to clear the ice from the culvert. I specifically told Mr. Coonrod not to divert the disturbed area runoff into the undisturbed diversion.

Page 3
ACT/015/025
Memorandum
March 29, 1985

I explained to him that one of the best things that he could do to try and clear the ice from the cross culvert was to allow the water to continue to run through the culvert. I told him to try to open up the culvert, and to place strawbales and siltfence in the undisturbed diversion below the culvert inlet just in case some disturbed area runoff happened to bypass the culvert. He said that he had installed strawbales and silt fence already, and that he was going to try and thaw the ice using a salamander.

On February 27, 1985, OSM, Inspector Frank Atencio, called me from Price and informed me that Mr. Coonrod had breached the berm and directed the disturbed area runoff into the undisturbed diversion and was passing it through a siltfence and strawbale. Because of this, the Division received Ten-Day Notice X-85-02-031-02 (TDN) on March 4, 1985.

At the time of this inspection the culvert inlet was approximately 85% blocked with ice. I told Mr. Owen that they needed to clear the culvert inlet. In addition I told him that they should clean the inlet and outlet of the culvert after each snowstorm.

Mr. Munson and I inspected the strawbales and silt fence which the operator had placed in the undisturbed diversion to treat the disturbed area runoff from the scalehouse area. We could see under the siltfence and we could also see where runoff had gone around the siltfence. It was also apparent where runoff had gone around the strawbale. It was obvious that the siltfence and strawbale would not have treated the disturbed area runoff whatsoever.

Because the culvert inlet was not properly maintained, Notice of Violation N85-4-8-2, #2 of 2 was issued, it reads as follows:

Nature of the Violation:

Failure to maintain sediment controls in such a manner as to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.

Provision of the Regulations, Act or Permit violated

UMC 817.45

Portion of the Operation to Which Notice Applies

The cross culvert to the scalehouse catch basin (Sediment Pond B).

Remedial Action Required

Maintain the culvert so that it can pass the runoff from a 10 year, 24 hour event as designed.

Time for Abatement

March 21, 1985 at 5:00 p.m.

The violation was issued from the Division offices on March 12, 1985.

Scalehouse Area Undisturbed Diversion

The operator had recently maintained the berm and undisturbed diversion on the east side of the scalehouse area as requested during my February 7, 1985 inspection.

Culvert #2 D

The downspout for the disturbed area runoff from the coal storage yard down to the shop pad was still partially blocked by ice. I discussed this problem with Mr. Munson and we agreed that replacing the culvert with an open riprap ditch would probably eliminate the problems. The operator should submit plans to modify their existing structure.

60 Inch Culvert Trash Rack

Mr. Munson and I inspected the inlet to the 60 inch culvert which conveys Bear Creek under the haul road. We discussed the possibility of installing a trash rack upstream of the present culvert inlet. We agreed that a good location for the trash rack would be at a point approximately 125 to 150 feet upstream of the inlet where the stream channel is somewhat restricted. The operator should submit plans for the trash rack to the Division for approval.

Fuel Storage Tank

During my February inspection, I asked Mr. Coonrod why a berm had not been constructed around the fuel storage tank. At that time he indicated to me that they had modified their plans to allow any fuel which leaked from the storage tanks to go to Sediment Pond A. Following my inspection, I called Mr. Steve McNeal of the Bureau of Water Pollution Control. Mr. McNeal informed me that they would normally require a berm to be constructed around fuel storage tanks rather than directing it to a sediment pond unless there were unusual circumstances preventing an adequate berm.

I discussed this matter with Mr. Munson and Mr. Owen at the time of the inspection. While looking at this area we found that it would



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Ex 3 *David Lof*
Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 12, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 867

Mr. Wendell Owen
Co-Op Mining Company
P. O. Box 1245
Huntington, Utah 84528

Dear Mr. Owen:

RE: Proposed Assessment for State Violation No. N85-4-8-2,
ACT/015/025, Folder #8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector David Lof, on March 12, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

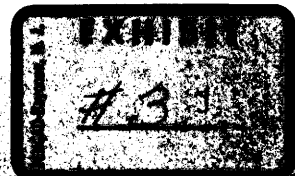
Mike Earl

Mike Earl
Assessment Officer

re

Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
73140



WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op/Bear Canyon NOV # N85-4-8-2
PERMIT # ACT/015/025 VIOLATION 2 OF 2

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE 6-7-85 EFFECTIVE ONE YEAR DATE 6-8-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-3-1</u>	<u>11-23-84</u>	<u>1</u>	_____	_____	_____
<u>C84-7-1-1 PA</u>	<u>5-8-85</u>	<u>0</u>	_____	_____	_____
<u>C83-5-1-4 #3</u>	<u>6-29-84</u>	<u>5</u>	_____	_____	_____
<u>C83-5-3-1</u>	<u>pending</u>	<u>0</u>	_____	_____	_____
<u>N84-4-13-3 PA</u>	<u>5-5-85</u>	<u>0</u>	_____	_____	_____

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 6

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? _____

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Water pollution
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 14

PROVIDE AN EXPLANATION OF POINTS Inspector indicated that the event most likely did occur but since no H₂O samples were taken at the time of inspection, the event could not be verified as having occurred. The runoff would have gone almost directly into Bear Creek.

3. Would or did the damage or impact remain within the exploration or permit area? No

	<u>RANGE</u>	<u>MID-POINT</u>
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 21

PROVIDE AN EXPLANATION OF POINTS Per inspector statement any runoff could have caused the event to occur. The runoff would go almost directly into Bear Creek.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

	<u>RANGE</u>	<u>MID-POINT</u>
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 35

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		<u>MID-POINT</u>
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 28

PROVIDE AN EXPLANATION OF POINTS Operator received a similar violation on January 15, 1985. TDN X-85-02-031-02 was issued February 27, 1985 notifying them of the problem and warning them to take care of the violation.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
 Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
 Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Abatement deadline was March 21, 1985. Violation was terminated March 22, 1985. Inspector had not received any prior notification of completion of actions required.

V. ASSESSMENT SUMMARY FOR N85-4-8-2 #2

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>35</u>
III. TOTAL NEGLIGENCE POINTS	<u>28</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 69

TOTAL ASSESSED FINE \$ 3000

Mike Earl

ASSESSMENT DATE June 7, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT FINAL ASSESSMENT



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

July 30, 1985

REC'D 8/5/85

REGISTERED RETURN RECEIPT REQUESTED
P 402 457 699

Mr. Nathan Atwood
Co-Op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Finalized Assessment for State Violation Nos. N85-4-8-2, N85-4-3-2, N85-4-2-1, ACT/015/025, Folder #8, Emery County, Utah

The civil penalty for the violation No. N85-4-8-2, N85-4-3-2, N85-4-2-1 has been finalized in the amount shown in the attached assessment conference report. This assessment is finalized as a result of the meeting, discussion or letter described on the reassessment form.

Any appeal to the Board of Oil, Gas and Mining must be made in writing within fifteen (15) days of your receipt of this letter. Additionally, you must have escrowed the assessed civil penalties with the Division within a maximum of 30 days of receipt of this letter but in all cases prior to the Board Hearing. Failure to comply with the above-stated statutory requirements shall result in a waiver of your right of further recourse.

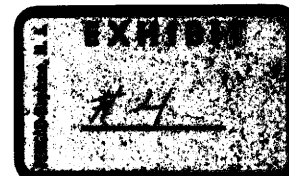
If no appeal or an untimely improper appeal is made, the assessed civil penalties must be tendered to the Division within thirty (30) days of your receipt of this letter.

Thank you for your cooperation.

Sincerely,

Dianne R. Nielson
for Constance K. Lundberg
Acting Assessment Officer

re
cc: Donna Griffin, OSM Albuquerque
Joe Helfrich
Barbara Roberts
03900



ASSESSMENT CONFERENCE REPORT
Utah Division of Oil, Gas & Mining
4241 State Office Building
Salt Lake City, Utah 84114

NOV/CO No. N85-4-8-2

Location of Conference: Salt Lake City, Utah

Date of Conference: July 15, 1985

Company Name/Mine Name: Co-Op/Bear Canyon Mine ACT/015/025

Persons in Attendance

Representing

Constance P. Lundberg

David Lof

Melvin Coonrod

Wendell Owen

Assessment Conference Officer DOGM

Division of Oil, Gas and Mining

Co-Op Mining Company

Co-Op Mining Company

Violation No.

Amount of Assessment
As Revised

N85-4-8-2 #1 of 2

\$ 960.00

#2 of 2

3,000.00

TOTAL

\$ 3,960.00

Approved:

Dianne R. Nielson
(Signature of Conference Officer)
for Constance P. Lundberg

Date: July 30, 1985

ASSESSMENT CONFERENCE REPORT
(continued)1. Notice of Violation/Cessation Order No. N85-4-8-2Permit # ACT/015/025Violation 2 of 2(a) Nature of violation: Culvert blocked with ice.

2. Conference Result

	Proposed Assessment	Conference Assessment
(a) History/Prev. Vio.	<u>6</u>	<u>6</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>14</u>	<u>14</u>
Extent of Damage	<u>21</u>	<u>21</u>
(2) Obstr. to Enforcement		
(c) Negligence	<u>28</u>	<u>28</u>
(d) Good Faith		
TOTAL	<u>69</u>	<u>69</u>
TOTAL ASSESSED FINE		<u>\$ 3,000</u>

3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

Evidence was that operator was aware of the problems with the iced-up culverts and used insufficient diligence to cure it.

0013Q

Ex 5 D

CO-OP MINING COMPANY

P.O. Box 1245
Huntington, Utah 84528



(801) 748-5238
Coal Sales (801) 748-5777

March 21, 1985

Dave Lof
Utah Division of Oil, Gas & Mining
355 West North Temple
#3 Triad Center Suite 350
Salt Lake City, Utah 84180-1203

RECEIVED
MAR 25 1985
DIVISION OF OIL
GAS & MINING

RE: NOV 85-4-8-2

Dear Mr. Lof:

Co-Op Mining requests that the above mentioned violation be vacated based on:

(#1) "1 of 2" On the request of yourself, Co-Op Mining Co. was attempting to repair evidence of a "pre-law" gully where the disturbed drainage off the upper pad drops off the hill. In the course of this work, the old portal was discovered. The location of this portal and the extent of these works were not known to Co-Op and it was felt advantageous to explore and map these works in order to conduct mining safely in the overlying seam. It was also a commitment in Co-Op's MRP to map all old works within and adjacent to the permit area.

When I was informed of the situation at 8:00 AM on 2/27/85, I called Mr. Ron Daniels and explained what had transpired. It was my understanding that Co-Op had permission to maintain this entry to the extent outlined in the attached letter.

Co-Op will provide a detailed plan of the old works and at your request, a modification to the MRP for future plans for this area. Work has started on this and Co-Op requests 30 days to complete said plans from this date (3/20/1985).

* (#2) "2 of 2" "Failure to maintain sed controls"

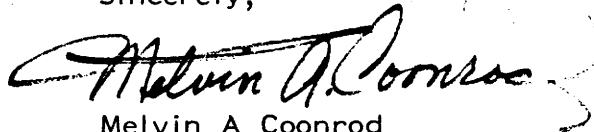
On 2/26/85 I called the Division and indicated that in order to maintain sediment controls, I temporarily had to divert the drainage



from this culvert into the undisturbed ditch in order to thaw an ice obstruction. I spoke personally to you, and as I remember, you suggested that I submit a plan. This was not a viable alternative due to the urgent nature of the problem and I requested to speak with Mr. Joe Helfrich. I was informed the Mr. Helfrich was in a meeting and would return my call within the hour. Mr. Helfrich has not as of yet returned my call. After some three hours, I diverted the flow into the clear water ditch after I was confident no disturbed runoff could reach the creek due to the presence of both a silt fence and a straw dam. To my knowledge none did!

In the event you do not concur with the request to vacate the NOV, Co-Op Mining requests the assessment conference be waived and a board hearing set at the earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Melvin A. Coonrod", with a stylized flourish at the end.

Melvin A Coonrod
Permitting & Compliance
Co-Op Mining Co.

nc

Enclosures

cc: D. Neilson
J. Helfrich

Exb

**STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING**

1588 West North Temple
Salt Lake City, Utah 84116
Telephone: (801) 533-5771

NOTICE OF VIOLATION NO. N 85-4-13-1

From the STATE OF UTAH
To the Following Permittee or Operator:

NAME CO-OP MINING CO.
MINE BEAR CYN. MINE ☐ SURFACE ☒ UNDERGROUND ☐ OTHER _____
CATEGORY OF OWNERSHIP: ☐ STATE ☐ FEDERAL ☐ FEE ☒ MIXED
OSM MINE NO. _____ STATE PERMIT NO. ACT/015/025 MSHA I.D. NO. _____
COUNTY AND STATE EMERY COUNTY, UTAH TELEPHONE _____
MAILING ADDRESS: P.O. Box 1245 HUNTINGTON, UT 84528
DATE OF INSPECTION APRIL 19, 19 85.
TIME OF INSPECTION: FROM 1:00 ☐ a.m. to 3:30 ☐ a.m.
☒ p.m. to ☒ p.m.
NAME OF OPERATOR (if other than permittee) _____
MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining and Reclamation Act of 1979 (Sec. 40-10-1 et seq., Utah Code Annotated, 1953), the undersigned authorized representative of the Director and the Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that cessation of mining is ☐ is not ☒ expressly or in practical effect required by this Notice. For this purpose "Mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This Notice shall remain in effect until it expires as provided on the reverse or is modified, terminated or vacated by written notice of an authorized representative of the Director of the Division of Oil, Gas & Mining. The time for abatement may be extended by the authorized representative for good cause, if a request is made within a reasonable time before the end of the abatement period.

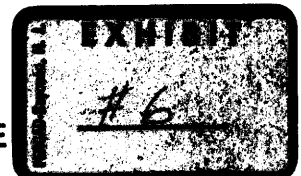
Date of Service APRIL 23, 1985 David Loe
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 1:30 ☐ a.m. ☒ p.m. DAVID LOE #4
NAME AND I. D. NO.

Person Served with Notice MELVIN A. COONROD
PRINT NAME AND TITLE

Signature ISSUED FROM DIVISION OFFICE

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE





STATE OF UTAH

Notice of Violation No. N 85-4-13-1

Violation No. 1 of 1

Nature of the Violation

FAILURE TO MINE ^{IN} ACCORDANCE WITH AN APPROVED INTERIM PERMIT

Provision(s) of the Regulations, Act, or Permit Violated

UCA 40-10-22(1)(c)
UMC 77.19

Portion of the Operation to which Notice Applies

DISCHARGE OF MINE WATER TO THE SEDIMENT POND

Remedial Action Required (including interim steps, if any)

- A. STOP DISCHARGING WATER FROM THE MINE
B. SUBMIT ~~BE~~ COMPLETE PLANS TO THE DIVISION FOR THE PERMITTING
OF DISCHARGE OF WATER FROM THE MINE TO THE SURFACE

Time for Abatement (including time for interim steps, if any)

- A. IMMEDIATELY
B. MAY 8, 1985

COMPANY/MINE
PERMIT #

Co-Op/Mining Co./Bear Ck
NOV/CO # N85-4-13-1
VIOLATION # 1 or 1

EX7
12

EVENT VIOLATIONS INSPECTORS STATEMENT



NOTE: PLEASE READ THE ATTACHED INFORMATION FIRST

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation / revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other.

THE SEDIMENT POND WHICH WAS RECEIVING THE MINE WATER DISCHARGE WAS NOT DESIGNED TO HANDLE THE ADDITIONAL INFLOW. AT THE TIME OF MY INSPECTIONS ON 4/19/85 + 4/30/85 THE LEVEL OF THE WATER IN THE POND WAS WITHIN INCHES OF THE PRIMARY ~~SEDIMENT~~ DRAINAGE DEVICES INLET. POTENTIAL MINE WATER DISCHARGE INTO THE POND COULD HAVE REDUCED THE CAPACITY OF THE POND TO CONTAIN THE 10 YEAR, 24 HOUR PRECIP. EVENT AS REQUIRED.

2. Has the event occurred? Yes No X

CONTINUED ON Pg. 3

If yes, describe it. If no, what would cause it to occur and how likely is it that it would happen.

A VERY LARGE PRECIPITATION EVENT APPROACHING THE 10 YEAR, 24 HOUR EVENT WOULD BE REQUIRED. IT IS UNLIKELY THAT THE EVENT WOULD HAVE OCCURRED.

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes X No
Does: Yes No X

Would: Yes X No
Does: Yes No X

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

NO DAMAGE OCCURRED IN REGARDS TO THE EVENT HOWEVER SOME EROSION DAMAGE DID OCCUR ON THE DOWNSLOPE OF THE HIGHER THAN SEDIMENT FILL. THE EROSION DISPLACED SEVERAL CHANG YARDS OF SOIL MATERIAL. DISCHARGE FROM THE SEDIMENT POND WOULD ENTER BEAR CK WHICH IS A PERENNIAL

Potential damage off the disturbed area. Yes X No

Potential damage off the permit area. Yes X No

SCREEN WITH A BACKGROUND TOTAL SUSPENDED SOLIDS LEVEL OF 350-1500 M/L. THE AMOUNT OF DAMAGE WOULD HAVE DEPENDEN UPON THE LEVEL OF THE SEDIMENT POND AT THE TIME OF A PRECIPITATION EVENT AND THE SIZE OF THE PRECIP. EVENT.

B. DEGREE OF FAULT (Only one question applies to each violation, check one and discuss.)

() No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

() Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

THE OPERATOR DID ACKNOWLEDGE THAT HE DID NOT HAVE APPROVAL TO DISCHARGE AT THE TIME OF MY 4/14/85 INSPECTION. THE OPERATOR SHOULD HAVE BEEN AWARE OF THE NEED TO HAVE APPROVAL TO DISCHARGE.

() Recklessness:

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

() Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

*NO GOOD FAITH IS AVAILABLE A FAILURE TO ABATE
CESSION ORDER WAS ISSUED ON THIS NOV.*

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.
3. Was the submission of plans prior to physical activity required by this NOV? Yes _____ No _____ If Yes, explain.

JUNE 20, 1985
DATE

David L. [Signature]
AUTHORIZED REPRESENTATIVE

#5231

A.1. CONTINUED

*THEREFORE CAUSING DISCHARGE OF DISTURBED AREA RUNOFF THROUGH THE
EMERGENCY SPILLWAY WHICH MAY NOT HAVE MET STATE AND FEDERAL
EFFLUENT LIMITATIONS.*

4/19/85 INSPECTION MEMO

On April 1, 1985, the Division received "plans" for the operator's proposed development of the Hiawatha seam pad. These plans proposed the development of the pad and portal as a conveyor portal for the Hiawatha seam. The plans included a conveyor coming from the portal, a two hundred ton bin with feeder, and a conveyor from the bin down to their tipple. While discussing this with Mr. Coonrod, I informed him that the Division was in the process of reviewing the plans. I told him that we are not going to approve plans for further development of the portal but simply plans for stabilization of the pad itself.

It did not appear that there had been any additional work on the Hiawatha seam pad since the issuance of the NOV. However, there was an electrical cable going up to and into the portal.

Mine Water Discharge, NOV N85-4-13-1

At the time of this inspection there was mine water discharging from the metal pipe adjacent to the disturbed area downspout for the portal pad. According to Mr. Coonrod, this was gravity flow from the mine sump. The amount of water being discharged was approximately 15-25 gallons per minute. The water was being discharged onto some conveyor belting which conveyed it down to the Hiawatha seam pad. The water was then flowing down the fill slope of the new pad causing excessive erosion on the slope. The water then followed the existing disturbed area runoff flow path to the sediment pond. I asked Mr. Coonrod if they had approval to discharge mine water to the sediment pond and he indicated that they did not. Because the operator did not have approval to discharge mine water and a concern for the sediment ponds ability to handle additional inflow. Notice of Violation N85-4-13-1 was issued, it reads as follows:

Nature of the Violation

Failure to mine in accordance with an approved interim permit

Provision of the Regulations, Act or Permit Violated

UCA 40-10-22 (1)(c)
UMC 771.19

Portion of the Operation to Which Notice Applies

Discharge of mine water to the sediment pond.

Remedial Action Required

- A. Stop discharging water from the mine
- B. Submit complete plans to the Division for the permitting of discharge of water from the mine to the surface.

Page 3
ACT/015/025
May 6, 1985

Time for Abatement

- A. Immediately
- B. May 8, 1985

The NOV was issued from the Division office on April 23, 1985.

Portal Pad Disturbed Area Runoff Downspout

The operator has installed a new downspout inlet for the disturbed area runoff from the portal pad. However, runoff was bypassing the culvert inlet and seeping through the berm piping along the culvert. I pointed this out to Mr. Coonrod and he told me that they were planning on cementing in the inlet.

Sediment Pond

The water level in the sediment pond was close to the crest of the principal spillway.

Fugitive Dust Control on the Class 1 Road

Dust on the road was adequately controlled at the time of this inspection. This was primarily due to precipitation received on the day of the inspection.

Buffer Zone Signs

I asked Mr. Coonrod if he had ordered buffer zone signs to place along Bear Creek. He said that he had not and that former Division Permit Supervisor Mary Boucek told him that they were not necessary. I then told him that no matter what he was told that the regulations require that buffer zone signs be provided. He then asked for a letter from the Division directing him to do so. I informed him that it was a requirement of the regulations to provide buffer zone signs and that it was not necessary for the Division to send him a letter directing him to comply with regulations.

re

cc: Donna Griffin, OSM
Mel Coonrod, Co-Op Mining Company
Joe Helfrich, DOGM
John Whitehead, DOGM

Statistics: See Soldier Creek Coal Company, Soldier Canyon Mine
memo dated May 6, 1985

0243Q-11-13

Page 2
Memorandum
ACT/015/025
May 27, 1985

5/8/85 INSPECTION MEMO

from the Division, to conduct any mining outside the Bear Canyon seam proper. Which means that they should not perform any work on the rock slope nor in the Hiawatha seam.

Mine Water Discharge, NOV N85-4-13-1

This violation was issued on April 23, 1985 for the operators discharging of mine water to the sediment pond without approval. The operator was required to stop discharging water from the mine immediately and to submit complete plans to the Division for the permitting of mine water discharge to the surface. Plans were due May 8, 1985.

During an inspection conducted on April 30, 1985, I found that water was still discharging from the mine at approximately 5 gallons per minute. On May 2, 1985, Cessation Order C85-4-4-1 was issued for the operators failure to abate Notice of Violation N85-4-13-1. The operator was required to comply with the remedial actions in the NOV (Part A) immediately.

On May 3, 1985, I received a phone call from Mel Coonrod, of Co-Op Mining Company, informing me that the mine water discharge had been disconnected, this conversation was followed up with a letter from the operator received May 9, 1985. At the time of my inspection, there was no discharge from the mine water pipe. Therefore, the Cessation Order was terminated, effective May 3, 1985, the date which Mr. Coonrod called to inform me that the mine water discharge had been disconnected.

On May 6, 1985, the Division received a letter from the operator stating that the water, which I had issued the NOV on, was spring water which Co-Op had requested a water right for, and will be using "in conjunction with mining irrigation and culinary purposes." The letter went on to say that if more detailed plans were required that Co-op would request an extension of 30 days at which time the plans would be submitted in their Technical Analysis response. The Division has granted the operator the thirty day extension until June 8, 1985 to submit complete plans to the Division for the permitting of the mine water discharge to the surface.



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Handwritten signature
Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 28, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 878

Mr. Nathan Atwood
Co-op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Proposed Assessment for State Violation No. N85-4-13-1,
N85-4-18-1, C85-4-4-1, ACT/015/025, Folder #8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violations. These violations were issued by Division Inspector David Lof, N85-4-13-1, on April 23, 1985, N85-18-1 on May 31, 1985 and C85-4-4-1 on May 2, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl

Mike Earl
Assessment Officer

re

Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
73140

an equal opportunity employer



WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY NAME Co-op/Bear Canyon NOV # N85-4-13-1
PERMIT # ACT/015/025 VIOLATION 1 OF 1

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE June 25, 1985 EFFECTIVE ONE YEAR DATE June 26, 1985

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N84-7-3-1	11-23-84	1	N85-4-2-1 PA	6-6-85	0
C84-7-1-1 PA	5-8-85	0	N85-4-3-2 PA	6-6-85	0
C83-5-1-4 #3	6-29-84	5	N85-4-8-2 PA	6-7-85	0
C83-5-3-1	pending	0			
N84-4-13-3 PA	5-5-85	0			

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 6

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Water pollution
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS Per inspector statement it would take a 10 year 24 hours precipitation event to cause this event to occur. Rated as unlikely.

3. Would or did the damage or impact remain within the exploration or permit area? No

	<u>RANGE</u>	<u>MID-POINT</u>
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 9

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the sediment pond which was receiving the mine water discharge was not designed to handle the additional inflow. Although it would take a substantial precipitation event, it is possible that discharge from the sediment pond could enter Bear Creek which is a perennial stream.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

	<u>RANGE</u>	<u>MID-POINT</u>
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 14

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

	<u>0</u>	<u>MID-POINT</u>
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
ASSIGN NEGLIGENCE POINTS 9

PROVIDE AN EXPLANATION OF POINTS The operator acknowledged at the time of the inspection on April 19, 1985 that he did not have approval to discharge.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO
-EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*

(Immediately following the issuance of the NOV)

Rapid Compliance -1 to -10*

(Permittee used diligence to abate the violation)

Normal Compliance 0

(Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO -
DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*

(Permittee used diligence to abate the violation)

Normal Compliance -1 to -10*

(Operator complied within the abatement period required)

Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS A failure to abate CO # C85-4-4-1 was issued for this NOV. No good faith warranted.

V. ASSESSMENT SUMMARY FOR N85-4-13-1

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>14</u>
III. TOTAL NEGLIGENCE POINTS	<u>9</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 29

TOTAL ASSESSED FINE # 380

Mike Earl

ASSESSMENT DATE June 25, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

July 30, 1985

REC'D 8/5/85

REGISTERED RETURN RECEIPT REQUESTED
P 402 457 703

Mr. Nathan Atwood
Co-op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Finalized Assessments for State Violation Nos. N85-4-13-1,
C85-4-4-1, ACT/015/025, Folder #8, Emery County, Utah

The civil penalty for the violations No. N85-4-13-1 and C85-4-4-1 has been finalized in the amount shown in the attached assessment conference report. This assessment is finalized as a result of the meeting, discussion or letter described on the reassessment form.

Any appeal to the Board of Oil, Gas and Mining must be made in writing within fifteen (15) days of your receipt of this letter. Additionally, you must have escrowed the assessed civil penalties with the Division within a maximum of 30 days of receipt of this letter but in all cases prior to the Board Hearing. Failure to comply with the above-stated statutory requirements shall result in a waiver of your right of further recourse.

If no appeal or an untimely improper appeal is made, the assessed civil penalties must be tendered to the Division within thirty (30) days of your receipt of this letter.

Thank you for your cooperation.

Sincerely,

Dianne R. Nielson
for Constance K. Lundberg
Acting Assessment Officer

re
cc: Donna Griffin, OSM Albuquerque
Joe Helfrich
Barbara Roberts
03900



ASSESSMENT CONFERENCE REPORT
Utah Division of Oil, Gas & Mining
4241 State Office Building
Salt Lake City, Utah 84114

NOV/CO No. N85-4-13-1

Location of Conference: Division of Oil, Gas and Mining, Salt Lake City

Date of Conference: July 16, 1985

Company Name/Mine Name:

Co-op Mining Company/Bear Canyon Mine

Persons in Attendance

Constance K Lundberg
David Lof
Mel Coonrod

Representing

Acting Assessment Officer, DOGM
Mining Field Specialist, DOGM
Co-op Mining Company

Violation No.

N85-4-13-1

Amount of Assessment
As Revised

\$ 260.00

C85-4-4-1

750.00

TOTAL

\$ 1,010.00

Approved:

(Signature of Conference Officer)

Date: July 30, 1985

For Constance V. Lundberg

ASSESSMENT CONFERENCE REPORT
(continued)1. Company Name/Mine Name: Co-op Mining Company/Bear Canyon MinePERMIT # ACT/015/025VIOLATION N85-4-13-1, #1 of 1(a) Nature of violation: Discharge of unpermitted water to sediment pond.

2. Conference Result

	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>6</u>	<u>6</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	<u>9</u>	<u>9</u>
(2) Obstr. to Enforcement	<u> </u>	<u> </u>
(c) Negligence	<u>9</u>	<u>3</u>
(d) Good Faith	<u> </u>	<u> </u>
TOTAL	<u>29</u>	<u>23</u>
TOTAL ASSESSED FINE		<u>\$ 260.</u>

3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

Water was culinary system overflow, not mine discharge. It would be more difficult to anticipate. However, erosion and flow to sediment pond occurred regardless of the source of the water.

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING

1588 West North Temple
Salt Lake City, Utah 84116
Telephone (801) 533-5771

CESSATION ORDER NO.C 85-4-1-1

From the STATE OF UTAH
To the Following Permittee or Operator:

NAME Co-Op Mining Co.
MINE BEAR CANYON MINE ☐ SURFACE ☒ UNDERGROUND ☐ OTHER _____
COUNTY AND STATE EMERY COUNTY, UTAH TELEPHONE _____
MAILING ADDRESS: P.O. Box 1245 HUNTINGTON, UTAH 84528
OSM MINE NO. _____ STATE PERMIT NO. ACT/015/025 MSHA I. D. NO. _____
CATEGORY OF OWNERSHIP: ☐ STATE ☐ FEE ☐ FEDERAL ☐ MIXED
CATEGORY OF OWNERSHIP: ☐ STATE ☐ FEE ☐ FEDERAL ☐ MIXED
DATE OF INSPECTION APRIL 30, 19 85
TIME OF INSPECTION: FROM 1:15 ☐ a.m. to 1:45 ☐ a.m.
☒ p.m. ☒ p.m.
NAME OF OPERATOR (If other than permittee) _____
MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining & Reclamation Act (Section 40-10-1 et seq., Utah Code Annotated), the undersigned authorized representative of the Director and Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, Utah Code Annotated, you are ordered to CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

The undersigned authorized representative hereby finds that this Order does ☐ does not ☒ require cessation of mining expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This order shall remain in effect until it expires as provided on the reverse, or is modified, terminated or vacated by written notice signed by an authorized representative of the Secretary of the Interior.

Date of Service MAY 2, 1985 David Lof
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 3:00 ☐ a.m. ☒ p.m. DAVID LOF #4
NAME AND I. D. NO.

Person Served with Notice MELVIN A. COONROD
PRINT NAME AND TITLE

Signature ISSUED FROM DIVISION OFFICE

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE





STATE OF UTAH

Cessation Order No. C 85-1-4-1

Violation No. 1 of 1

Nature of Condition, Practice, or Violation

FAILURE TO ABATE A NOTICE OF VIOLATION WITHIN THE TIME SET FOR
ABATEMENT

Provision(s) of the Regulations, Act, or Permit Violated

UCA 40-10-22 (1)(c)
UMC 843.11 (b)(1)

Check Appropriate Box:

- ☐ The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- ☐ The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.
- ☒ The permittee or operator has failed to abate Violation(s) No. 1 included in Notice of Violation No. N 85-4-13-1 within the time for abatement originally fixed or subsequently extended.

Operation(s) to be Ceased Immediately

NOT APPLICABLE

Affirmative Obligation(s) and Time for Abatement (if applicable)

COMPLY WITH THE REMEDIAL ACTIONS REQUIRED IN THE VIOLATION. PART A
IMMEDIATELY



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 28, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 878

Mr. Nathan Atwood
Co-op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Proposed Assessment for State Violation No. N85-4-13-1,
N85-4-18-1, C85-4-4-1, ACT/015/025, Folder #8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violations. These violations were issued by Division Inspector David Lof, N85-4-13-1, on April 23, 1985, N85-18-1 on May 31, 1985 and C85-4-4-1 on May 2, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl

Mike Earl
Assessment Officer

re
Enclosure
cc: D. Griffin, OSM Albuquerque Field Office
73140

an equal opportunity employer



WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-op/Bear Canyon CO # C85-4-4-1
PERMIT # ACT/015/025 VIOLATION 1 OF 1
INSPECTOR David Lof DATE ISSUED May 2, 1985
NATURE OF THE CESSATION ORDER: Failure to abate N85-4-13-1
DATE OF ABATEMENT OF CESSATION ORDER: May 3, 1985
DATE OF RECEIPT OF CESSATION ORDER: May 3, 1985
LIST THE DAYS OF FAILURE TO ABATE: May 3, 1985
TOTAL NUMBER OF DAYS OF FAILURE TO ABATE: 1 day
NUMBER OF DAYS X \$750/DAY = TOTAL ASSESSED FINE: \$ 750.

ASSESSMENT DATE June 25, 1985 ASSESSMENT OFFICER *Mike Earl*
Mike Earl

ASSESSMENT X PROPOSED ASSESSMENT FINAL

0061Q



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

July 30, 1985

REC'D 8/5/85

REGISTERED RETURN RECEIPT REQUESTED
P 402 457 703

Mr. Nathan Atwood
Co-op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Finalized Assessments for State Violation Nos. N85-4-13-1,
C85-4-4-1, ACT/015/025, Folder #8, Emery County, Utah

The civil penalty for the violations No. N85-4-13-1 and
C85-4-4-1 has been finalized in the amount shown in the attached
assessment conference report. This assessment is finalized as a
result of the meeting, discussion or letter described on the
reassessment form.

Any appeal to the Board of Oil, Gas and Mining must be made in
writing within fifteen (15) days of your receipt of this letter.
Additionally, you must have escrowed the assessed civil penalties
with the Division within a maximum of 30 days of receipt of this
letter but in all cases prior to the Board Hearing. Failure to
comply with the above-stated statutory requirements shall result in
a waiver of your right of further recourse.

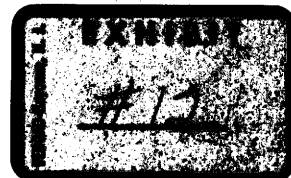
If no appeal or an untimely improper appeal is made, the
assessed civil penalties must be tendered to the Division within
thirty (30) days of your receipt of this letter.

Thank you for your cooperation.

Sincerely,

Dianne R. Nielson
for Constance K. Lundberg
Acting Assessment Officer

re
cc: Donna Griffin, OSM Albuquerque
Joe Helfrich
Barbara Roberts
03900



FINALIZED ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE CO-Op/Bear Canyon Mine CO # C85-4-4-1
 PERMIT # ACT/015/025 VIOLATION 1 OF 1
 INSPECTOR David Loft DATE ISSUED May 2, 1985
 NATURE OF THE CESSATION ORDER: Failure to abate N85-4-13-1
 DATE OF ABATEMENT OF CESSATION ORDER: May 3, 1985
 DATE OF RECEIPT OF CESSATION ORDER: May 3, 1985
 LIST THE DAYS OF FAILURE TO ABATE: May 3, 1985
 TOTAL NUMBER OF DAYS OF FAILURE TO ABATE: One (1)
 NUMBER OF DAYS X \$750/DAY = TOTAL ASSESSED FINE: \$750.00

Delay in abatement resulted from absence of company permitting and compliance officer. Company is obligated to provide substitutes during absence of personnel.

CONFERENCE DATE July 16, 1985 CONFERENCE OFFICER Constance K. Lundberg

 PROPOSED ASSESSMENT X FINAL ASSESSMENT

69760

Ex 13

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING

1588 West North Temple
Salt Lake City, Utah 84116
Telephone (801) 533-5771

CESSATION ORDER NO. C 84-7-1-1

From the STATE OF UTAH
To the Following Permittee or Operator:

NAME CO-OP MINING CO.
MINE BEAR CREEK CANYON ☐ SURFACE ☒ UNDERGROUND ☐ OTHER _____
COUNTY AND STATE EMERY - UTAH TELEPHONE _____
MAILING ADDRESS: P.O. BOX 1245 HUNTINGTON UT. 84528
OSM MINE NO. _____ STATE PERMIT NO. ACT 1015/025 MSHA I. D. NO. _____
CATEGORY OF OWNERSHIP: ☐ STATE ☒ FEE ☐ FEDERAL ☐ MIXED
CATEGORY OF OWNERSHIP: ☐ STATE ☒ FEE ☐ FEDERAL ☐ MIXED
DATE OF INSPECTION JULY 10TH, 19 84
TIME OF INSPECTION: FROM _____ ☐ a.m. to _____ ☐ a.m.
_____ ☐ p.m. _____ ☐ p.m.
NAME OF OPERATOR (if other than permittee) _____
MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining & Reclamation Act (Section 40-10-1 et seq., Utah Code Annotated), the undersigned authorized representative of the Director and Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, Utah Code Annotated, you are ordered to CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

The undersigned authorized representative hereby finds that this Order does ☒ does not ☐ require cessation of mining expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This order shall remain in effect until it expires as provided on the reverse, or is modified, terminated or vacated by written notice signed by an authorized representative of the Secretary of the Interior.

Date of Service AUGUST 6, 1984 Kenneth W. Wyatt
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 8:00 ☒ a.m. Kenneth W. Wyatt #7
☐ p.m. NAME AND I. D. NO.

Person Served with Notice Wendel Owen
PRINT NAME AND TITLE

Signature NOTICE SERVED FROM OFFICE

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE





STATE OF UTAH

Cessation Order No. C 84-7-1-1

Violation No. 1 of 1

Nature of Condition, Practice, or Violation

CONDUCTING MINING OPERATIONS WITHOUT A PERMIT

FAILED TO OPERATE IN ACCORDANCE WITH AN APPROVED MINE PLAN

Provision(s) of the Regulations, Act, or Permit Violated

U.C.A. 1953 SECTION 40-10-9

UNE 771.19

Check Appropriate Box:

- ☐ The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- ☒ The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.
- ☐ The permittee or operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended.

Operation(s) to be Ceased Immediately

UNDERGROUND DEVELOPMENT AND COAL REMOVAL OF THOSE AREAS OUTSIDE THE
BEAR CREEK CANYON MINE PERMIT AREA.

Affirmative Obligation(s) and Time for Abatement (if applicable)

SUBMIT TO THE DIVISION A MINE PLAN REVISION FOR THOSE MINING ACTIVITIES CONDUCTED
BEYOND THE PERMIT AREA WHICH INCORPORATES THE EXISTING MINE DEVELOPMENT
OUTSIDE THE PERMIT AREA FOR NECESSARY ADJUSTMENTS TO THE PERMIT BOUNDARY
AND RECLAMATION PERFORMANCE BOND BY NO LATER THAN AUGUST 20TH, 1984

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op/Bear Creek

NOV # C84-7-1-1

PERMIT # ACT/015/025

VIOLATION 1 OF 1

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE 5/10/85

EFFECTIVE ONE YEAR DATE 5/11/84

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
N84-7-3-1	11-23-84	1	N84-4-13-3	PA	5-8-85
C83-5-1-4 #3	6-29-84	5			
C83-5-3-1	pending	0			

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 6

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

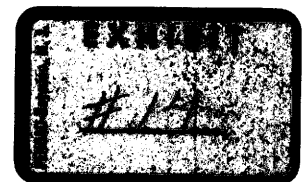
A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Environmental Harm Damage to property
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Per inspector, mining outside the permit boundary may cause unexpected damage by surface subsidence and interruption of groundwater flow. Approximately 8 acres of coal was mined. Damage to the resource has occurred.



3. Would or did the damage or impact remain within the exploration or permit area? No

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 23

PROVIDE AN EXPLANATION OF POINTS The extent of damage included the mining of about 8 acres of unpermitted coal. Potential subsidence and the effect on the groundwater system are to be considered and are unknown.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation. PROVIDE AN EXPLANATION OF POINTS

ASSIGN HINDRANCE POINTS

TOTAL SERIOUSNESS POINTS (A or B) 38

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 30

PROVIDE AN EXPLANATION OF POINTS Per inspector statement, operator is responsible for mining only within the limits of the permitted area. Considered reckless and assessed as Greater Degree of Fault.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO
-EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
Rapid Compliance -1 to -10*
(Permittee used diligence to abate the violation)
Normal Compliance 0
(Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO -
DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, a permit boundary revision request was required by August 20, 1984. The revision was received August 21, 1984. No good faith is warranted.

V. ASSESSMENT SUMMARY FORC84-7-1-1

- I. TOTAL HISTORY POINTS
II. TOTAL SERIOUSNESS POINTS
III. TOTAL NEGLIGENCE POINTS
IV. TOTAL GOOD FAITH POINTS

6
38
30
0

TOTAL ASSESSED POINTS

74

TOTAL ASSESSED FINE

\$4,000ASSESSMENT DATE May 8, 1985ASSESSMENT OFFICER Mary Ann WrightX PROPOSED ASSESSMENTFINAL ASSESSMENT



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

EX 15

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

July 31, 1985

REGISTERED RETURN RECEIPT REQUESTED
P 402 457 696

Mr. Nathan Atwood
Co-Op Mining Company
P. O. Box 3000
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Finalized Assessment for State Violation Nos. NN84-4-13-3, and C84-7-1-1, ACT/015/025, Folder #8, Emery County, Utah

The civil penalty for violations No. N84-4-13-3 and C84-7-1-1 has been finalized in the amount shown in the attached assessment conference report. This assessment is finalized as a result of the meeting, discussion or letter described on the reassessment form.

Any appeal to the Board of Oil, Gas and Mining must be made in writing within fifteen (15) days of your receipt of this letter. Additionally, you must have escrowed the assessed civil penalties with the Division within a maximum of 30 days of receipt of this letter but in all cases prior to the Board Hearing. Failure to comply with the above-stated statutory requirements shall result in a waiver of your right of further recourse.

If no appeal or an untimely improper appeal is made, the assessed civil penalties must be tendered to the Division within thirty (30) days of your receipt of this letter.

Thank you for your cooperation.

Sincerely,

Dianne R. Nielson
for Constance K Lundberg
Assessment Officer

re
cc: Donna Griffin, OSM Albuquerque
Joe Helfrich
Barbara Robert
03900

RETURN
TO

INSTRUCTIONS
1. and ZIP Code in the space below.
2. 3. and 4 on the reverse.
article it space permit.
back of article.
Return Receipt Requested

ES POSTAL SERVICE
CIAL BUSINESS



ASSESSMENT CONFERENCE REPORT
(continued)1. Notice of Violation/Cessation Order No. C84-7-1-1Permit # ACT/015/025Violation 1 of 1

(a) Nature of violation:

Mining was performed outside permit area.

2. Conference Result

Proposed
AssessmentConference
Assessment

(a) History/Prev. Vio.

66

(b) Seriousness

(1) Probability of Occurrence

1515

Extent of Damage

2318

(2) Obstr. to Enforcement

(c) Negligence

3030

(d) Good Faith

TOTAL

7469

TOTAL ASSESSED FINE

\$ 3,000.00

3. Narrative:

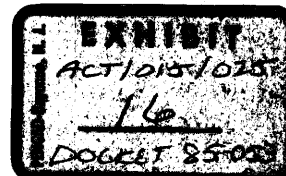
(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

Evidence indicates potential surface damage is probably less than estimated due to geology of impacted area. No change in other points. The operator must bear full responsibility to work within permit area. All maps and surveys are in complete operator control.

0013Q

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING

1588 West North Temple
 Salt Lake City, Utah 84116
 Telephone (801) 533-5771



CESSATION ORDER NO.C **84-7-1-1**

From the STATE OF UTAH
 To the Following Permittee or Operator:

NAME CO-OP MINING CO.
 MINE BEAR CREEK CANYON ☐ SURFACE ☒ UNDERGROUND ☐ OTHER _____
 COUNTY AND STATE EMERY UTAH TELEPHONE _____
 MAILING ADDRESS: P.O. BOX 1245 HUNTINGTON UT. 84528
 OSM MINE NO. _____ STATE PERMIT NO. ACT 1015/1025 MSHA I. D. NO. _____
 CATEGORY OF OWNERSHIP: ☐ STATE ☒ FEE ☐ FEDERAL ☐ MIXED
 CATEGORY OF OWNERSHIP: ☐ STATE ☒ FEE ☐ FEDERAL ☐ MIXED
 DATE OF INSPECTION JULY 10TH, 19 84
 TIME OF INSPECTION: FROM _____ ☐ a.m. to _____ ☐ a.m.
 _____ ☐ p.m. _____ ☐ p.m.
 NAME OF OPERATOR (if other than permittee) _____
 MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining & Reclamation Act (Section 40-10-1 et seq., Utah Code Annotated), the undersigned authorized representative of the Director and Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, Utah Code Annotated, you are ordered to CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

The undersigned authorized representative hereby finds that this Order does ☒ does not ☐ require cessation of mining expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This order shall remain in effect until it expires as provided on the reverse, or is modified, terminated or vacated by written notice signed by an authorized representative of the Secretary of the Interior.

Date of Service AUGUST 6, 1984 Kenneth W. Wyatt
 SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 8:00 ☒ a.m. Kenneth W. Wyatt #7
☐ p.m. NAME AND I. D. NO.

Person Served with Notice Wendel Owen
 PRINT NAME AND TITLE

Signature NOTICE SERVED FROM OFFICE

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE



STATE OF UTAH

Cessation Order No. C 84-7-1-1

Violation No. 1 of 1

Nature of Condition, Practice, or Violation

CONDUCTING MINING OPERATIONS WITHOUT A PERMIT
FAILURE TO OPERATE IN ACCORDANCE WITH AN APPROVED MINE PLAN

Provision(s) of the Regulations, Act, or Permit Violated

U.C.A. 1953 SECTION 40-10-9
UMC 771.19

Check Appropriate Box:

- ☐ The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- ☒ The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.
- ☐ The permittee or operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended.

Operation(s) to be Ceased Immediately

UNDERGROUND DEVELOPMENT AND COAL REMOVAL OF THOSE AREAS OUTSIDE THE
BEAR CREEK CANYON MINE PERMIT AREA.

Affirmative Obligation(s) and Time for Abatement (if applicable)

SUBMIT TO THE DIVISION A MINE PLAN REVISION FOR THESE MINING ACTIVITIES CONDUCTED
BEYOND THE PERMIT AREA WHICH INCORPORATES THE EXISTING MINE DEVELOPMENT
OUTSIDE THE PERMIT AREA FOR NECESSARY ADJUSTMENTS TO THE PERMIT BOUNDARY
AND RECLAMATION PERFORMANCE BOND BY NO LATER THAN AUGUST 20TH, 1984

SCOTT M. MATHESON
Governor

GORDON E. HARMSTON
Executive Director,
NATURAL RESOURCES

CLEON B. FEIGHT
Director



STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS, AND MINING
1588 West North Temple
Salt Lake City, Utah 84116
(801) 533-5771

OIL, GAS, AND MINING BOARD

CHARLES R. HENDERSON
Chairman

JOHN L. BELL
C. RAY JUVELIN
THADIS W. BOX
MAXILIAN A. FARBMAN
EDWARD T. BECK
E. STEELE McINTYRE

Vacation or Termination of Notice or Order

To the Following Permittee or Operator:

Name Coop Mining Company
Mailing Address P.O. Box 1245 HUNTINGTON UT 84111 34528
State Permit No. AG/9.5/225

Utah Coal Mining and Reclamation Act, Section 40-10-1 et. seq., Utah Code Annotated (1953):

Notice of Violation No. N _____ Y TV dated _____, 19____.

Cessation Order No. C 34-7-1-1 84 1 dated August 7, 1984.
Y TV

Violation No. 1 is hereby X Terminated _____ Vacated because:

Violation No. _____ is hereby _____ Terminated _____ Vacated because:

Violation No. _____ is hereby _____ Terminated _____ Vacated because:

Date of Service September 28 1984 Kenneth W. Wyatt
Signature of Authorized Representative

Time of Service or Mailing 300 a.m. X p.m. Kenneth W. Wyatt #7
Name and I.D. No.

Effective date August 24, 1984 as per Division letter
approving the incidental boundary change.

COMPANY/MINE Coop Mining Co
PERMIT # ACT 013/025

~~NOV~~/CO # 84-7-1-1
VIOLATION # 1 or 1

EVENT VIOLATIONS INSPECTORS STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- ☒ c. Damage to property.
- d. Conducting activities without appropriate approvals.
- ☒ e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation / revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other.

The regulations were designed to protect property and the environment by allowing underground development and coal removal in specified areas thus controlling the degree subsidence and impacts to the surface area, and groundwater and structures.

2. Has the event occurred? Yes No X located on the surface.

If yes, describe it. If no, what would cause it to occur and how likely is it that it would happen.

Discussion with DOGM hydrologists and biologists confirm that the potential does exist for additional damage to the surface from subsidence and a potential for groundwater loss. However all evidence to date indicates that no offsets damage.

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes X No
Does: Yes X No

Would: Yes X No
Does: Yes X No

(over)

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

Attachment 1 describes the area mined outside of the permit area and requests an incidental boundary change which was approved on August 24, 1984 (see Attachment 2). Damage should be minimal at this time and Coop's subsidence.

Potential damage off the disturbed area. Yes X No

Potential damage off the permit area. Yes X No

(over)

8 has occurred. The pullers in this area have been pulled thru some subevidence may occur. In fact at the groundwater regime should be non-existent or minimal since the area mined is located away from the faults in this area which act as groundwater conduits.

4. monitoring plan should monitor for any surface effects from the activity

三

1990

10

B. DEGREE OF FAULT (Only one question applies to each violation, check one and discuss.)

() No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

() Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

(X) Recklessness:

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

a careful operator should know exactly which areas his company is mining in and should know where his lease ends and should know not to mine beyond the boundary. This could be recklessness or knowing

() Knowing and Willful Conduct

and willful
Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

The operator submitted to the Division an incidental boundary change. This was received by the Division on August 21, 1984. The abatement deadline was set for August 20, 1984. On August 24, 1984 the Division approved the change

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.

yes

3. Was the submission of plans prior to physical activity required by this NOV? Yes ☒ No ☐ If Yes, explain.

no physical abatement was required since the area was already mined.

Oct 4, 1984
DATE

Kenneth Woods
AUTHORIZED REPRESENTATIVE

#5231

Attachment 1

Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Utah Division of Oil, Gas & Mining
4241 State Office Building
Salt Lake City, Utah 84114

RECEIVED

AUG 21 1984

Attention: Dr. Dianne R. Nielson, Dir.

Ref: 788.12,2,(d) Incidental Boundary Revisions.

DIVISION OF OIL
& MINING

Dear Dr. Nielson:

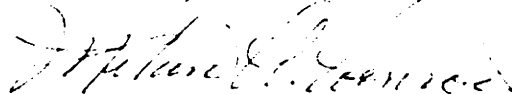
Co-Op Mining Company, Bear Canyon Mine ACT/015/025,#2, Emery County Utah, formally requests under UCA-40-10-1 et seq. UMC regulation 788.12,1,(d) an incidental boundary change Bear Canyon Mine permit area. The change is noted and delineated on attachment Figure 3-4 (1) and on Plate 3-4A. The incidental boundary change encompasses an area of 20 acres which is less than 3% of the existing permit area. This change makes the permit area and the Bear Canyon Mine property boundary run concurrently in this area. By granting this change, it should alleviate some of the confusion by members of your staff relative to the property line as defined on Plate 3-4 and the permit boundary as pictured on Plate 2-1.

Co-Op feels that the existing surety agreement is adequate to address this additional area. This assumption is based on the fact that there are no structures, road, and/or facilities within the 20 acre area. Co-Op anticipates no surface disturbance and the area was covered by the existing subsidence inventory and lies within the existing permit area of potential subsidence influence zone.

Needless to say, Co-Op has discontinued all activity in this area until the boundary change is approved.

I appreciate your consideration of this matter.

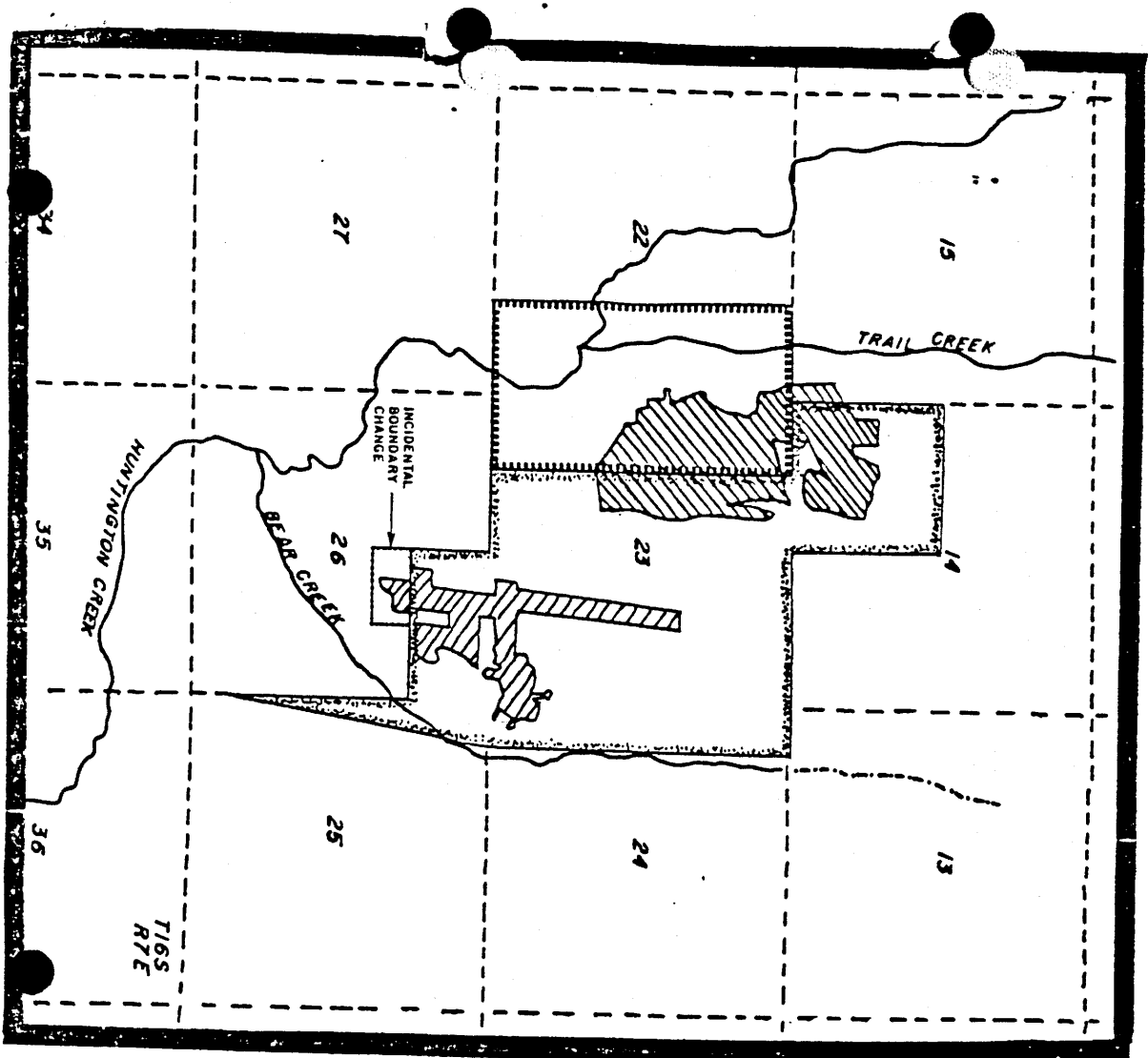
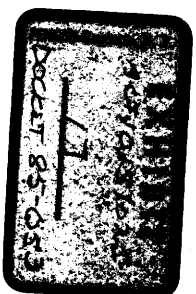
Sincerely,



Melvin A. Coonrod
Permitting & Compliance

MC/njc

[Handwritten notes and signatures at bottom left]



KEY

BEAR CANYON MINE PERMIT AREA

TRAIL CANYON MINE PERMIT AREA

BEAR CANYON MINE WORKINGS

TRAIL CANYON MINE WORKINGS

SECTION BOUNDARIES

STREAMS

N

0 0.5 10 MI.

SCALE 1:24,000

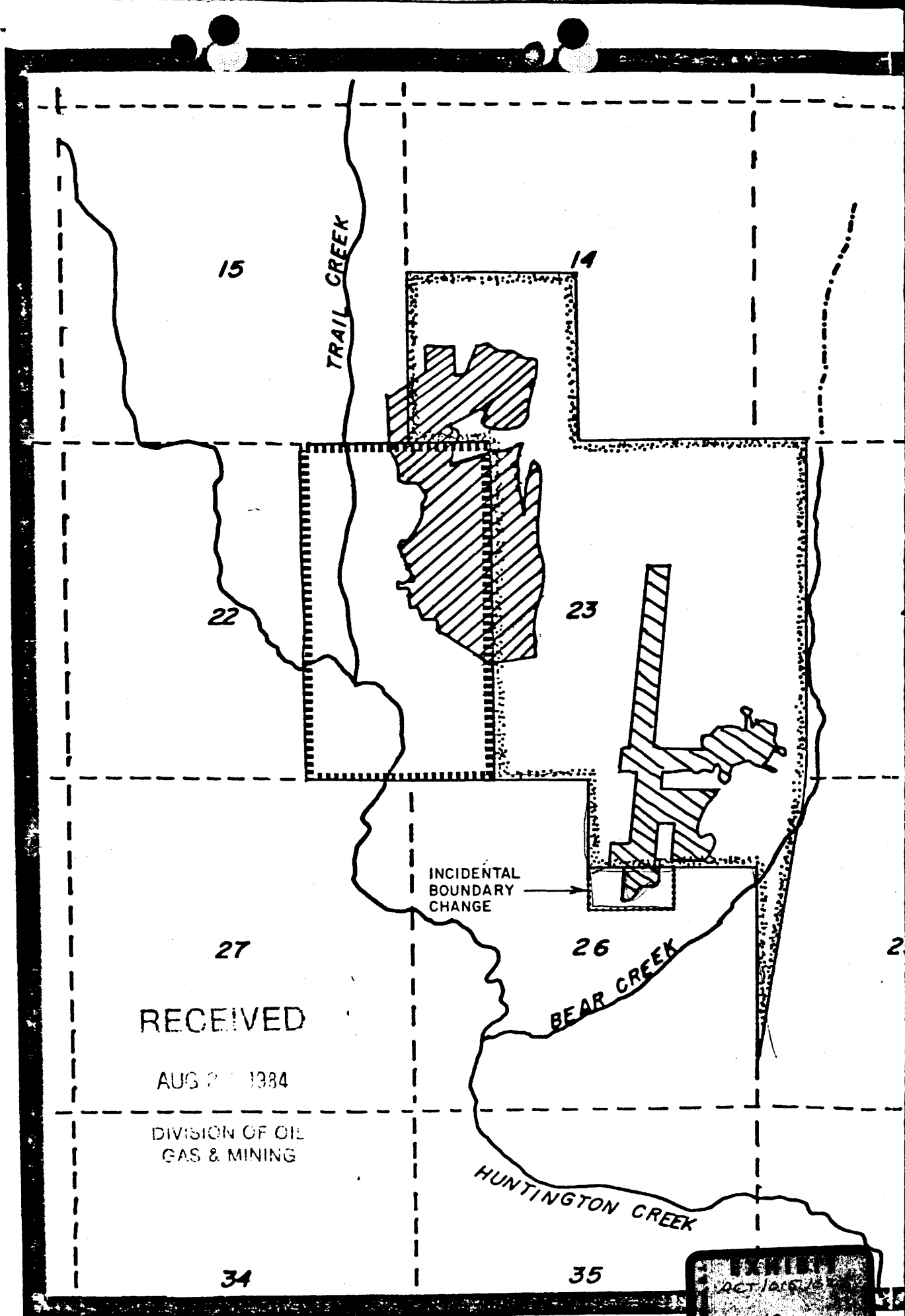
TRAIL CANYON AND BEAR CANYON MINES:

PERMIT AREAS/ MINE WORKINGS

RECEIVED

FIGURE 3-4

APR 21 1984





STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

- Attachment 2

August 24, 1984

Mr. Wendell Owen
Co-op Mining Company
P. O. Box 1245
Huntington, Utah 84528

Dear Mr. Owen:

RE: Incidental Boundary Change, Bear Creek Canyon Mine,
ACT/015/025, #3 and #4, Emery County, Utah

The Division has reviewed the revised maps and write-up submitted by Co-op Mining Company August 21, 1984 regarding the incidental boundary change amendment to the Bear Creek Canyon Mining and Reclamation Plan. The information submitted meets the requirements of UMC 788.12, Permit Revisions, for an incidental boundary change. Therefore, the Division hereby approves the incidental boundary change for the Bear Creek Canyon Mine, as requested August 21, 1984.

Sincerely,

Dianne R. Nielson
Director

EH/btb

cc: Barbara Roberts
Ron Daniels
Jim Smith
Mary Boucek
Joe Helfrich
Ev Hooper
Ken Wyatt

99460-1

1 A Right.

2 Q Can you explain what is required by 783.24 up there, or
3 do you need to come back here?

4 A No. It's on page 77 of the regulations. And under 783.24,
5 Maps, General Requirements, the regulation states:

6 "The permit application shall include maps showing:

7 "(b) The boundaries of land within the proposed permit
8 area upon which the applicant has the legal right to enter and
9 begin underground coal mining activities;

10 "(c) The boundaries of all areas proposed to be affected
11 over the estimated total life of the underground coal mining
12 activities, with a description of the size, sequence and timing
13 of the mining of sub-areas for which it is anticipated that
14 additional permits will be sought."

15 Q What will this information, this permit boundary informa-
16 tion, enable the Division to accomplish? What does the Division
17 need this information for?

18 A The Division needs it to find a permit boundary to know
19 the area that's going to be affected and where are they going--
20 proposing to mine.

21 Q Has this boundary remained fairly consistent with the
22 maps that have been submitted by Co-op Mining?

23 A No. As a matter of fact, there is contradictory permit
24 boundaries, and on the Plate 2-1, which is entitled, "Permit
25 Area Map," the permit boundary is the stippled line, again.



1 And you can--I've put it in over here where the boundary would
2 be on Plate 2-1, and it's this green dashed line, which indi-
3 cates mining has taken place outside of their proposed permit
4 area.

5 Q Earlier there was testimony to the effect that in the MRP,
6 it was stated that anything that was contradictory, the most
7 recent submittal would be the correct one. If that is the
8 case, has there been a more recent map than this indicating a
9 contradictory permit boundary map line?

10 A The Plate 6 A, I think it is, on the right-hand side here,
11 is entitled, "Geologic Map." And it also shows a permit boun-
12 dary, which indicates, if this one is the current permit
13 boundary, that they have in fact--are today mining outside of
14 their permit boundary.

15 Q If in fact this is the correct map, and this is the cor-
16 rect permit boundary, then the remaining five, six maps in the
17 MRP are incorrect; is that correct?

18 A That's right.

19 Q That includes the permit area map--

20 A The permit area map, the geologic map, would be incorrect.

21 Q Thank you. With regard to the section enumerated 783.25,
22 would you explain what is required by that section? What has
23 been determined incomplete in this provision?

24 A 783.25 is on page 78 of the regulations, and it states that:
25 "The application shall include cross-sections, maps, and

1 plans showing: (d) All coal crop lines and the strike and
2 dip of the coal to be mined within the proposed mine plan
3 area; (e) Location and extent of known workings of active,
4 inactive, or abandoned underground mines, including mine open-
5 ings to the surface within the proposed mine plan and adjacent
6 areas."

7 Q Would you explain the deficiencies with regard to (d)
8 initially?

9 A Okay. Co-op submitted this map on June 25. It's called
10 Plate 6 A, and it's Exhibit M. And the location of the strike
11 and dip symbol is down here, and it indicates that it's on any
12 typical geologic map, the strike and dip symbol is put on the
13 unit. This is below it. It indicates it's beneath the coal,
14 which is this dashed line, and it's in a unit other than the
15 coal.

16 Also, the dip symbol, according to their own mine plan
17 maps and other work in the area by other geologists, is revers-
18 ed. These rocks are not dipping in this direction. They are
19 in fact dipping this way, to the southeast, instead of, as
20 indicated here, to the northwest.

21 Q Why is this information important to the evaluations that
22 you need to make?

23 A In conjunction with the groundwater, it would be useful
24 to have the correct dip symbol, because if the rocks are dip-
25 ping in this fashion, the groundwater may be recharged some-

